

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Suits - Arbitration – An amount of Rs.92,00,000/- as full and final settlement of the Judgement and decree, dated: 28.04.2001 in O.S No. 12/98 on the file of the Court of 1st Additional District Judge, West Godavari District, Eluru, in respect of the work relating to Dredging in Upputeru old course from Km.57.40 to Km.59.05 carried out by M/s Ardeshir B.Cursetjee & Sons Limited, Mumbai vide Agreement No. SE/CERP/ELR/19/93-94, dt.31.7.93 – Sanctioned- Orders – Issued.

IRRIGATION AND COMMAND AREA DEVELOPMENT (ARB) DEPARTMENT

G.O Ms. No. 110

Dated:23.10.2010.

Read the following:--

- 1) From the Hon`ble High Court of A.P., Hyderabad Common Order dated: 4.2.2009 in A.S Nos.290 of 2001 and 540 of 2002.
- 2) Sri T.V.S Gopala Rao, G.P.A. Holder of M/s. Ardeshir and B.Cursetjee & Sons Ltd., Mumbai, Representation dated: 23.03.2009.
- 3) From the ENC (Irrigation), I&CAD Department, Hyderabad letter No.ENC(I)DCE(GDS)/OT.2 /AEE2/ARB/UppUteru Km.57.40 to Km.59.05/2009, dated: 26.11.2009.
- 4) Government Letter No.17810/ARB/09-3, dated: 08.03.2010.
- 5) From the ENC (Irrigation) I&CAD Dept., Hyd., Lr. No.ENC(I)/DCE(GDS)OT.2 /AEE2/ARB/Upputeru km57.40 to km59.05/2009, dated: 27.03.2010.

ORDER:

Sri T.V.S Gopala Rao, G.P.A Holder of M/s. Ardeshir and B.Cursetjee & Sons Ltd., Mumbai, in the reference 2nd read above, has stated that the Dredging works in Upputeru old course from Km. 57.40 to Km. 59.05 was awarded to M/s. Ardeshir B.Cursetjee & Sons Ltd., Mumbai. There were disputes between M/s.Ardeshir B.Cursetjee and Sons Limited, Mumbai, and the Irrigation Department, West Godavari District with regard to the payment of the Contract amount relating to the above work. Those are carried out to 1st Additional District Judge Court, West Godavari District, Eluru in O.S.No.12/98. The Hon'ble Court by its decree and judgement dt.28-04-2001 partly allowed the suit in favour of the plaintiff company for an amount of Rs.70,66,697/- with subsequent interest @18% from the date of 01-12-1997 till the date of decree and thereafter at 6% p.a. till realization and also awarded the costs of Rs.2,16,797/- and disallowed certain other claims. The Plaintiff company has filed an E.P.No.6 of 2002 before the Additional Chief Judge, City Civil Court, Hyderabad. Against the claims disallowed to the plaintiffs, they have also preferred an Appeal in A.S No.2900/2001, before the Hon'ble High Court of A.P. Against the Decree and Judgement dt.28-04-2001, the Government have preferred an Appeal Suit No.540/2002, before the Hon'ble High Court. In pursuance of the orders of the Hon'ble High Court, the Government have deposited 50% of the decretal amount. The Hon'ble High Court in its order first read above, have directed the plaintiff/contractor to submit a comprehensive representation putting forth all his claims before the concerned Principal Secretary, Irrigation and Command Area Development Department within a period of four weeks from today i.e.04.02.2009. Accordingly, on receipt of the said representation, the said authority shall enquire into the same and after giving due notice and opportunity to the plaintiff/contractor, shall see that the claim is settled. It shall be open for the parties herein to revive the appeal in the event of any failure. Sri T.V.S Gopala Rao, G.P.A Holder of M/s. Ardeshir & B.Cursetjee & Sons Limited, Mumbai in his representation 2nd read above has requested the Government for settle the claims.

P.T.O

::2::

2. In pursuance of the directions of the Hon`ble High Court, dated: 04.02.2009 in A.S Nos.2900 of 2001 and 540/2002, the matter has been discussed in the concerned Conciliation Committee with the above Contracting Firm. During the final conciliation with the contracting firm on 22.3.2010, the G.P.A Holder of M/s Ardeshir B.Cursetjee & Sons Limited, Mumbai has agreed for an amount of Rs.92,00,000/- as full and final settlement of all their claims. Accordingly, the G.P.A Holder of M/s Ardeshir B.Cursetjee & Sons Limited, Mumbai has given his consent on the notarized affidavit declaring that they will withdraw all legal proceedings in Hon`ble High Court of A.P., in respect of the above subject work after realization.

3. Government after careful examination of the matter, hereby accord sanction for an amount of Rs.92,00,00/- (Rupees Ninty two lakhs only) towards depositing of decretal charges as full and final settlement of the Judgement and decree dated: 28.4.2001 in O.S No.12/98 on the file of the Court of 1st Additional District Judge, West Godavari District, Eluru in respect of the work relating to Dredging in Upputeru old course from K.M.57.40 to K.M 59.05 carried out by M/s Ardeshir B.Cursetjee & Sons Limited, Mumbai vide Agt. No.SE/CERP/ELR/19/93-94 dated: 31.7.93, subject to withdraw all legal proceeding by the above contracting firm after realization.

4. The amount sanctioned at para (3) above shall be debitable to the following detailed Head of Account: "4711-03-Drainage-103 Civil Work – GH11 Normal State Plan – SH-07 – Godavari Delta Area – 530 Major Works – 531 – Other Expenditure"

5. The Engineer-in-Chief (Irrigation) I & CAD Department, Hyderabad is directed to deposit the above sanctioned amount duly deducting the amounts that are recoverable on whatsoever account.

6. This order issues with the concurrence of Finance (Expr. PW) Department vide their U.O No. 22169/738/Expr.PW/A1/10, dated: 21.08.2010.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.P.TUCKER
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Engineer-in-Chief(Irrigation) I&CAD Deptt., Jalsoudha Building, Errum Manzil,
Hyderabad.
The Superintending Engineer, Irrigation Circle, Eluru, West Godavari District.
The Director of Works Accounts, A.P., Hyderabad.
Sri T.V.S Gopala Rao, GPA Holder of M/s Ardeshir B.Cursetjee & Sons Limited,
Mackinnon Machenzie Building, 4 Shoorjivallabhdas, Marg, Mumbai-400 001.

Copy to: The Finance (Exp.PW) Department
with a request to release the LOC for the above sanctioned amount.
The I&CAD (P&B) Department.
The Accountant General, A.P., Hyderabad.
The Learned Advocate General, High Court Buildings, A.P., Hyderabad.
The Government Pleader for Arbitration, High Court of A.P., Hyderabad.
SF/SCs.

//Forwarded::Byorder//

SECTION OFFICER